

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE**

MAVERICK CAPITAL, LTD.

Plaintiff,

v.

MAVERICK ASSET MANAGEMENT
LLC; JASON CASTENIR (an individual);
and SCOTT PHELPS (an individual)

Defendants.

Civil Action No.: 3:13cv1179

(Proposed) CONSENT JUDGMENT

WHEREAS Plaintiff, Maverick Capital, Ltd. (“Maverick Capital”), brought this action against Defendants, Maverick Asset Management LLC (a Kentucky corporation, now expired, but with a former address of 650 S. Hwy 27, Somerset, KY 42501); Jason Castenir (an individual residing in Somerset, KY); and Scott Phelps (an individual residing in Nancy, KY) (collectively, “Defendants”), to remedy acts of trademark infringement, unfair competition, false representation, false designation of origin, and cyberpiracy arising under federal and common law as a result of Defendants’ use of the terms MAVERICK and MAVERICK ASSET MANAGEMENT, and their use of the maverickassetmgt.com and maverickbusinessservices.com domain names, all as detailed in the *Complaint*;

WHEREAS Defendants waive formal service of the *Complaint*, acknowledge the strength and validity of Maverick Capital’s asserted trademarks, including MAVERICK®, MAVERICK CAPITAL®, and MAVERICK FUND®, and admit having

used the MAVERICK mark without Maverick Capital's permission in connection with the offering of investment advisement, wealth management, and other financial services;

WHEREAS the parties have reached an agreement and have proposed that it be adopted by this Court through the entry of a Consent Judgment; and

WHEREAS this Court has considered the proposed Consent Judgment and finds that good cause exists for the entry of a Judgment as set forth below.

NOW THEREFORE IT IS ADJUDGED AND DECREED THAT:

1. This Court has jurisdiction over both the subject matter of this case and the parties involved therein, and Defendants have received proper notice of the claims;

2. The terms MAVERICK, MAVERICK CAPITAL, and MAVERICK FUND are strong and valid trademarks that identify Maverick Capital, Ltd. as the sole source of investment management, financial research, portfolio management, and other financial services offered under or in connection with any of those marks; and

3. Defendants have engaged in acts of trademark infringement, unfair competition, false representation, false designation of origin, and cyberpiracy in violation of both federal and common law based on the activities specified in the *Complaint*, including through Defendants' use of the terms MAVERICK and MAVERICK ASSET MANAGEMENT, and their use of the maverickassetmgt.com and maverickbusinessservices.com domain names, in connection with the offering of investment advisement, wealth management, and other financial services.

NOW THEREFORE JUDGMENT IS ENTERED in favor of Maverick Capital, Ltd. on all of the claims asserted in the *Complaint*, and this Court further orders that:

- A. Defendants, Maverick Asset Management LLC; Jason Castenir; and Scott Phelps, along with any officers, agents, representatives, servants, employees, and attorneys, and those persons in active concert or participation with them, who receive actual notice of the Order by personal service or otherwise, are immediately and permanently enjoined from:
 - (1) Using the names MAVERICK or MAVERICK ASSET MANAGEMENT (all with or without a domain extension, such as “.com”), or any other reproduction, copy, colorable imitation, or confusingly similar variation of any of the above, as, or as part of, a mark, trade name, slogan, or domain name, that is to be used in the connection with the sale or provision or any good or service;
 - (2) Engaging in acts that constitute infringement, unfair competition, false representation, or false designation of origin, under the trademark laws of the United States and which is likely to damage or injury to Maverick Capital, including, without limitation, representing, suggesting, or claiming that any of them are (or ever were) affiliated with any “Maverick” entity (*e.g.*, “Maverick Capital” or “Maverick Asset Management”), such as through “LinkedIn”; or
 - (3) Inducing, encouraging, instigating, aiding, abetting, or contributing to any of the aforesaid acts.

- B. In accordance with 15 U.S.C. §1118, Defendants shall immediately deliver up for destruction to Maverick Capital any and all goods, labels, signs, prints, packages, wrappers, receptacles, website code, electronic files, letterhead, brochures, and advertisements (and the like) in their possession or under its custody or control that use the MAVERICK or MAVERICK ASSET MANAGEMENT names;
- C. In accordance with 15 U.S.C. §1116, Defendants shall serve on Maverick Capital, no later than thirty days after receiving service of this Order, a report in writing and under oath setting forth in detail the manner and form in which it has complied with the Order;
- D. In accordance with 15 U.S.C. § 1125(d)(1)(C), the maverickassetmgt.com and maverickbusinessservices.com domain names, along with any other “MAVERICK” domain names owned or controlled by any of the Defendants, are hereby ordered assigned from Defendants to Maverick Capital, and Defendants shall take all necessary steps to transfer those domain names to the control of Maverick Capital within three days of entry of this Order;
- E. In accordance with 15 U.S.C. § 1119, any state or federal trademark registration owned by any of the Defendants for any “MAVERICK” mark shall be cancelled, and any pending state or federal trademark application shall be abandoned;
- F. If any of the Defendants fails to comply fully with the terms of this Order and are later found to be (or to have been) in contempt, such Defendant(s) shall be responsible for (and shall reimburse) any legal fees and costs incurred by Maverick Capital in bringing and pursuing a contempt motion before this Court; and

G. Each of the parties to this proceeding shall bear its own costs.

Entered this ____ day of _____, 2014

Todd Campbell
United States District Judge

Through the undersigned, the parties STIPULATE AND AGREE to the entry of this *Consent Judgment* and to abide by its terms, and further STIPULATE AND AGREE that this Court has (and shall maintain) jurisdiction to enforce said *Consent Judgment*:

For MAVERICK CAPITAL, LTD.

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Dated: 2/4/14

*Counsel for Plaintiff,
Maverick Capital, Ltd.*

For MAVERICK ASSET MANAGEMENT LLC

Scott Phelps

Scott Phelps, Member

Dated: January 23, 2013

JASON CASTENIR

Dated: January 23, 2013

SCOTT PHELPS

Scott Phelps

Dated: January 23, 2013